

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED

MAR 11 2019

M. J. Smith
CLERK

MATTHEW DUMARCE,

Plaintiff,

vs.

SISSETON-WAHPETON SIOUX TRIBE;
BILL OWENS, Tribal Police Officer; and
GARY GAIKOWSKI, Chief of Police;

Defendants.

1:17-CV-01012-CBK

ORDER

Plaintiff filed this *pro se* lawsuit pursuant to 42 U.S.C. § 1983 on May 24, 2017. Plaintiff was incarcerated in the Roberts County jail in the custody of the Sisseton-Wahpeton Sioux Tribe by virtue of a contract between the Tribe and Roberts County. Plaintiff claims that defendant Bill Owens made homophobic remarks to plaintiff that constitute sexual harassment and that defendant Gary Gaikowski failed to investigate plaintiff's complaint after being notified of it.

Plaintiff was granted leave to proceed *in forma pauperis* on June 1, 2017. Plaintiff then requested a motion to extend the deadline to pay a partial filing fee on June 15, 2017, which the Court granted on June 19, 2017. Plaintiff filed a motion for discovery and appointment of counsel on June 22, 2017 which this Court denied on December 22, 2017. On December 27, 2017, the Court's order denying plaintiff's motion for discovery and appointment of counsel and ordering plaintiff to complete summons forms for each defendant was returned as undeliverable.

This Court is otherwise unable to locate plaintiff to deliver its order or provide notice that this plaintiff's claim may be dismissed. Nor has plaintiff filed anything further to advance this case. As such, plaintiff has failed to prosecute his claims and all such claims are subject to dismissal pursuant to Fed. R. Civ. P. 41(b). The district court may dismiss a

case *sua sponte* for failure to prosecute as part of its inherent case management powers.
Link v. Wabash R. Co., 82 S. Ct. 1386, 1388-89 (1962).

Based upon the foregoing,

IT IS ORDERED that plaintiffs' complaint, Doc. 1, is dismissed.

Dated this 1st day of March, 2019.

BY THE COURT:

A handwritten signature in cursive script, reading "Charles B. Kornmann". The signature is written in dark ink and is positioned above the printed name of the judge.

CHARLES B. KORNMANN
United States District Judge